

# EXHIBIT 1

# **Email between Counsel Agreeing to Service Date of Jan. 2, 2024**

## Philip Racusin

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**From:** Jason Van Dyke <jason@marsalalawgroup.com>  
**Sent:** Tuesday, January 2, 2024 6:01 PM  
**To:** Scott Hathaway  
**Subject:** RE: Petition

[External Email]

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We are in agreement.

## Magana & Van Dyke, PLLC

**Jason L. Van Dyke**  
**Attorney at Law, Receiver**  
1417 E. McKinney Street  
Suite 110  
Denton, TX 76209  
P – (940) 382-1976  
F – (469) 453-3031

Licensed to practice law in Texas, Colorado, Georgia and the District of Columbia.

---

**From:** Scott Hathaway <shathaway@cwlaw.com>  
**Sent:** Tuesday, January 2, 2024 5:16 PM  
**To:** Jason Van Dyke <jason@marsalalawgroup.com>  
**Cc:** Isaac R. Ellis <IEllis@cwlaw.com>; Shelly D. Jones <SJones@cwlaw.com>  
**Subject:** RE: Petition

Jason,

It was good speaking with you today. As we discussed today, I have agreed to accept service of the Petition referenced below against Klause, Inc. We also agreed that my client's deadline for filing a responsive pleading is January 24, 2024. Please reply to this email stating your agreement to this deadline. I look forward to working with you on this matter.

Best,

Scott



Scott Hathaway | Partner  
P: 918.586.8510 | C: 918.850.3436

---

**From:** Jason Van Dyke <jason@marsalalawgroup.com>  
**Sent:** Thursday, December 28, 2023 4:20 PM  
**To:** Scott Hathaway <shathaway@cwlaw.com>  
**Subject:** Re: Petition

[External Email]

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I hope I can call you Tuesday. Out of town on vacation until then

Sent via the Samsung Galaxy S22 5G, an AT&T 5G smartphone

Get [Outlook for Android](#)

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**From:** Scott Hathaway <[shathaway@cwlaw.com](mailto:shathaway@cwlaw.com)>  
**Sent:** Thursday, December 28, 2023 3:55:13 PM  
**To:** Jason Van Dyke <[jason@marsalalawgroup.com](mailto:jason@marsalalawgroup.com)>  
**Subject:** RE: Petition

Jason,

I have spoken with my client about this matter. Please give me a call and we can discuss the matter further, including a date of service and corresponding answer date. I plan to bring the Project Owner in as a third party defendant as they have not paid my client for your client's services.

Thanks,

Scott



**Scott Hathaway | Partner**  
**Conner & Winters, LLP**  
15 E 5th St  
Suite 4100  
Tulsa, OK 74103  
**P:** 918.586.8510 | **C:** 918.850.3436  
**E:** [shathaway@cwlaw.com](mailto:shathaway@cwlaw.com)  
[cwlaw.com](http://cwlaw.com) |



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**From:** Jason Van Dyke <[jason@marsalalawgroup.com](mailto:jason@marsalalawgroup.com)>  
**Sent:** Wednesday, December 27, 2023 4:34 PM  
**To:** Scott Hathaway <[shathaway@cwlaw.com](mailto:shathaway@cwlaw.com)>  
**Subject:** Petition

**[External Email]**

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## Magana & Van Dyke, PLLC

**Jason L. Van Dyke**  
**Attorney at Law, Receiver**  
1417 E. McKinney Street  
Suite 110

Denton, TX 76209

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# Defendant's Request for Case Summary

February 12, 2023

ATASCOSA COUNTY CIVIL CASE SUMMARY - PLEADINGS ONLY  
CAUSE # 23-09-0608-CVA

MULHOLLAND ENERGY SERVICES, LLC      ATTORNEY: VAN DYKE, JASON LEE  
    1417 E. MCKINNEY STREET  
    DENTON, TX 76209  
    (940) 382-1976

--VS.--

KLAUS, INC.      ATTORNEY:

CAUSE OF ACTION: DEBT/CONTRACT - DEBT/CONTRACT  
FILE DATE: 09/28/2023

DATE	NATURE OF PROCEEDINGS REMARKS	AMOUNT	USER
09/28/2023	CIVIL ORIGINAL PETITION	\$350.00	AREYNOLDS
09/28/2023	CITATION ISSUED KLAUS, INC.	\$8.00	AREYNOLDS
09/28/2023	POSTAGE (16-20 PAGES) MAILED OUT 10/3/2023	\$3.00	AREYNOLDS
12/25/2023	POSTAGE (16-20 PAGES) MAILED 1/2/24	\$3.00	JPALACIOS
12/25/2023	CITATION ISSUED KLAUS INC.	\$8.00	JPALACIOS
12/25/2023	PLAINTIFFS FIRST AMENDED PETITION	\$0.00	JPALACIOS
12/25/2023	AFFIDAVIT OF NON-SERVICE- KLAUS, INC.	\$0.00	JPALACIOS
01/25/2024	NOTICE OF REMOVAL CASE 5:24-CV-00093 WETSERN DISTRICT OF TEXAS	\$0.00	AVILLALOBOS

TOTAL PLEADINGS LISTED: 14

**CAUSE NO. 23-09-0608-CVA**

**MULHOLLAND ENERGY SERVICES, LLC** § **IN THE COUNTY COURT**  
§  
**Plaintiff,** §  
§  
§  
v. § **AT LAW OF**  
§  
**KLAUS, INC.** §  
§  
§  
**Defendant.** § **ATASCOSA COUNTY, TEXAS**

**DEFENDANT'S REQUEST FOR CASE SUMMARY**

TO: Clerk of the Court

**PLEASE TAKE NOTICE** that Defendant, Klaus, Inc., by and through their attorney of record, hereby request a copy of the Court's Case Summary for submission to the United States District Court for the Western District of Texas.

Respectfully submitted:

**CONNER & WINTERS, LLP**

s/Jason S. Taylor

Jason S. Taylor  
Texas Bar No. 24008126  
4100 First Place Tower  
15 East 5<sup>th</sup> Street  
Tulsa, Oklahoma 74103  
(918) 586-8975  
[jtaylor@cwlaw.com](mailto:jtaylor@cwlaw.com)

**ATTORNEYS FOR DEFENDANT  
KLAUS, INC.**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the above and foregoing *Request* was served on February 12, 2024, via e-mail and/or U.S. Mails, all postage prepaid thereon, as shown below, addressed to:

Magana & Van Dyke, PLLC  
Jason Lee Van Dyke  
Texas Bar No. 24057426  
1417 E. McKinney St., #110  
Denton, TX 76209  
P – (940) 382-1976  
F – (469) 453-3031  
Email: [jason@marsalalawgroup.com](mailto:jason@marsalalawgroup.com)  
**ATTORNEY FOR PLAINTIFF**  
**MULHOLLAND ENERGY**  
**SERVICES, LLC**

s/Jason S. Taylor  
Jason S. Taylor

**Automated Certificate of eService**

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Cassandra Copeland on behalf of Jason Taylor

Bar No. 24008126

cdcopeland@cwlaw.com

Envelope ID: 84389887

Filing Code Description: Request

Filing Description: Defendant's Request for Case Summary

Status as of 2/13/2024 9:07 AM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Jason LeeVan Dyke		jason@marsalalawgroup.com	2/12/2024 9:56:50 AM	SENT
Philip DRacusin		pracusin@cwlaw.com	2/12/2024 9:56:50 AM	SENT
Janet Cook		jcook@cwlaw.com	2/12/2024 9:56:50 AM	SENT
Scott PHathaway		phathaway@cwlaw.com	2/12/2024 9:56:50 AM	SENT

[Logout](#)**Case Number: 23-09-0608-CVA**

Date	Description	Pages		
09/28/2023	CIVIL ORIGINAL PETITION	15	<a href="#">Preview Document</a>	<a href="#">Add To Cart</a>
09/28/2023	CITATION ISSUED	2	<a href="#">Preview Document</a>	<a href="#">Add To Cart</a>
09/28/2023	COPIES	N/A	<a href="#">No Image On File</a>	<a href="#">No Purchase</a>
09/28/2023	POSTAGE (16-20 PAGES)	N/A	<a href="#">No Image On File</a>	<a href="#">No Purchase</a>
09/29/2023	RECEIPT ISSUED	N/A	<a href="#">No Image On File</a>	<a href="#">No Purchase</a>
12/25/2023	POSTAGE (16-20 PAGES)	N/A	<a href="#">No Image On File</a>	<a href="#">No Purchase</a>
12/25/2023	COPIES	N/A	<a href="#">No Image On File</a>	<a href="#">No Purchase</a>
12/25/2023	CITATION ISSUED	2	<a href="#">Preview Document</a>	<a href="#">Add To Cart</a>
12/25/2023	PLAINTIFFS FIRST AMENDED PETITION	18	<a href="#">Preview Document</a>	<a href="#">Add To Cart</a>
12/27/2023	RECEIPT ISSUED	N/A	<a href="#">No Image On File</a>	<a href="#">No Purchase</a>
12/25/2023	AFFIDAVIT	1	<a href="#">Preview Document</a>	<a href="#">Add To Cart</a>
01/25/2024	NOTICE OF REMOVAL	35	<a href="#">Preview Document</a>	<a href="#">Add To Cart</a>

&lt;&lt; &lt; &gt; &gt;&gt; 12 Lines

[Back to Case List](#)[Case Info](#)

Record is new

# **Plaintiff's Original Petition**

**Sept. 28, 2023**

23-09-0608-CVA

CAUSE NO. \_\_\_\_\_

MULHOLLAND ENERGY SERVICES, LLC § IN THE DISTRICT COURT  
Plaintiff, §  
§  
v. § \_\_\_\_ JUDICIAL DISTRICT  
§  
KLAUS, INC. §  
Defendant. § ATASCOSA COUNTY, TEXAS

**PLAINTIFF'S ORIGINAL PETITION**

**I. DISCOVERY CONTROL PLAN**

1.1 This is a track one case. Plaintiff seeks monetary relief in the amount of \$250,000.00 or less including damages of any kind, pre-judgment interest, and attorney fees. This is an expedited action.

**II. PARTIES**

2.1 Plaintiff is Mulholland Energy Services, LLC ("Plaintiff"), a Texas limited liability company, whose address is 10308 WCR 72, Midland, TX 79707.

2.2 Defendant, Klaus, Inc., an Oklahoma Corporation, may be served with process by and through its registered agent, Kelly D. Klaus, at 7403 E Eseco Road, Cushing, OK 74023

2.3 Jurisdiction is proper because Plaintiff seeks monetary damages that are within the jurisdictional limits of this Court.

2.4 Venue is appropriate in this Court because all or part of the goods purchased or services rendered were performed in Pleasanton, Texas within Atascosa County.

**III. FACTS**

3.1 In the ordinary course of business Plaintiff sold to Defendant one or more items  
Filed 9/28/2023 3:36 PM  
Margaret E. Littleton  
District Clerk  
Atascosa County, Texas  
Reviewed By: Ashley Reynolds

ORIGINAL PETITION

of goods, wares, merchandise, or services, as described, and shown on the invoices attached hereto as Exhibit "A" and incorporated by reference herein.

- 3.2 This account represents a transaction or series of transactions for which a systematic record has been kept.
- 3.3 The prices charged for each item were just and true because they were either (a) according to the terms of a written contract; or (b) the usual, customary, and reasonable prices for each item.
- 3.4 The account remains unpaid. The principal balance due to Plaintiff on the account is \$89,097.36, exclusive of interest, after all just and lawful offsets, payments, and credits have been allowed.
- 3.5 This is a suit on a sworn account brought pursuant to Rule 185 of the Texas Rules of Civil Procedure. See Ex. B.
- 3.6 All conditions precedent to Plaintiff's claim for relief have been performed or have occurred.

#### **IV. ATTORNEY FEES**

- 4.1 The failure and refusal of Defendant to pay its lawful debts has made it necessary for Plaintiff employ the undersigned attorney to file suit. This claim was timely presented to Defendant remains unpaid. Reasonable fees for the attorney's services rendered and to be rendered through trial and appeal are at least \$26,729.20. Plaintiff's entitlement to attorney fees is pursuant to Tex. Civ. Prac. & Rem. Code § 38.001(7).

#### **V. PRAYER**

ORIGINAL PETITION

- 5.1 Plaintiff prays that Defendant be cited to appear and answer and that;
- a. Plaintiff be granted judgment against Defendant for actual damages in the amount of \$89,097.36;
  - b. Plaintiff be granted judgment for prejudgment and post-judgment interest at the highest rate permitted by law or contract;
  - c. Plaintiff be granted judgment for its reasonable attorney's fees in the amount of at least \$26,729.20 with additional contingent amounts in the event of appellate proceedings;
  - d. Plaintiff be granted judgment for all costs of court; and
  - e. Plaintiff be granted all such further relief, in law and in equity, to which he may show himself to be justly entitled.

Respectfully submitted,

**Magana & Van Dyke, PLLC**

/s/ Jason Lee Van Dyke  
Jason Lee Van Dyke  
Bar No. 24057426  
1417 E. McKinney St., #110  
Denton, TX 76209  
P - (940) 382-1976  
F - (469) 453-3031  
Email: jason@marsalalawgroup.com

# **Exhibit**

**"A"**



10308 WCR 72  
Midland, TX 79707

## Invoice

Date	Invoice #
4/2/2022	20220405041

Bill To
Klaus, Inc. P.O. 1193 Drumwright, OK 74030

Location
Pleasanton, TX

AFE #	*Rig/Location*	Job Description
	CUSHING TERMINAL	PROVIDE HYDROVAC TO SPOT UNDERGROUND LINES & UTILITIES
P.O. No.	Co. Man	
Manifold 206	Shane Hallman	

Description	Date	Ticket #	Manifest #	Truck #	Disposal Loc.	UOM	Qty	Rate	Amount
Hydro Vac	2022-03-30	17285		155		Day	1	2,400.00	2,400.00
Truck Bid									
Hydro Vac	2022-03-31	17286		155		Day	1	2,400.00	2,400.00
Truck Bid									
Hydro Vac	2022-04-01	17287		155		Day	1	2,400.00	2,400.00
Truck Bid									
Hydro Vac	2022-04-02	17351		155		Day	1	2,400.00	2,400.00
Truck Bid									

**TOTAL AMOUNT DUE WITHIN 30 DAYS OF THE INVOICE DATE.**

Over due invoices are subject to a late payment charge of 1.5% per month on any unpaid balances. Customer shall be responsible for any and all reasonable attorney fees associated with the collection of unpaid balances.

**MAKE ALL CHECKS PAYABLE TO MULHOLLAND ENERGY SERVICES.**

<b>Subtotal</b>	<b>\$9,600.00</b>
<b>Sales Tax (6.75%)</b>	<b>\$0.00</b>
<b>Total</b>	<b>\$9,600.00</b>
<b>Payments/Credits</b>	<b>\$0.00</b>
<b>Balance Due</b>	<b>\$9,600.00</b>



10308 WCR 72  
Midland, TX 79707

# Invoice

Date	Invoice #
4/9/2022	20220412053

Bill To
Klaus, Inc. P.O. 1193 Drumwright, OK 74030

Location
Pleasanton, TX

AFE #	*Rig/Location*	Job Description
Na Na	CUSHING TERMINAL	PROVIDE HYDROVAC TO SPOT UNDERGROUND LINES & UTILITIES
P.O. No.	Co. Man	Drilling Rig
NA	Shane Hallman	Na

Description	Date	Ticket #	Manifest #	Truck #	Disposal Loc.	UOM	Qty	Rate	Amount
Hydro Vac Truck Bid	2022-04-04	17677		Na	155	Day	1	2,400.00	2,400.00
Hydro Vac Truck Bid	2022-04-05	17678		A	155	Day	1	2,400.00	2,400.00
Hydro Vac Truck Bid	2022-04-06	17946		Na	155	Day	1	2,400.00	2,400.00
Hydro Vac Truck Bid	2022-04-07	17947		Na	155	Day	1	2,400.00	2,400.00
Hydro Vac Truck Bid	2022-04-08	17895			141	Day	1	2,400.00	2,400.00
Hydro Vac Truck Bid	2022-04-08	17896			141	Day	1	2,400.00	2,400.00
Hydro Vac Truck Bid	2022-04-08	17949		Na	Na	Day	1	2,400.00	2,400.00
Hydro Vac Truck Bid	2022-04-09	17951		Na	155	Day	1	2,400.00	2,400.00

TOTAL AMOUNT DUE WITHIN 30 DAYS OF THE INVOICE DATE.

Over due invoices are subject to a late payment charge of 1.5% per month on any unpaid balances. Customer shall be responsible for any and all reasonable attorney fees associated with the collection of unpaid balances.

MAKE ALL CHECKS PAYABLE TO MULHOLLAND ENERGY SERVICES.

<b>Subtotal</b>	\$19,200.00
<b>Sales Tax (6.75%)</b>	\$0.00
<b>Total</b>	\$19,200.00
<b>Payments/Credits</b>	\$0.00
<b>Balance Due</b>	\$19,200.00


 10308 WCR 72  
 Midland, TX 79707

**Invoice**

Date	Invoice #
4/12/2022	20220419018

Bill To
Klaus, Inc. P.O. 1193 Drumwright, OK 74030

Location
Pleasanton, TX

AFE #	*Rig/Location*	Job Description
	CUSHING TERMINAL	PROVIDE HYDROVAC TO SPOT UNDERGROUND LINES & UTILITIES
P.O. No.	Co. Man	Drilling Rig
Manifold 206	Shane Hallman	

Description	Date	Ticket #	Manifest #	Truck #	Disposal Loc...	UOM	Qty	Rate	Amount
Hydro Vac Truck Bid	2022-04-11	17953		155		Day	1	2,400.00	2,400.00
Mob/Demob	2022-04-12	18577		155		Day	1	2,400.00	2,400.00
Per Diem	2022-04-12	18577		155		Day	1	250.00	250.00

TOTAL AMOUNT DUE WITHIN 30 DAYS OF THE INVOICE DATE.

Over due invoices are subject to a late payment charge of 1.5% per month on any unpaid balances. Customer shall be responsible for any and all reasonable attorney fees associated with the collection of unpaid balances.

MAKE ALL CHECKS PAYABLE TO MULHOLLAND ENERGY SERVICES.

<b>Subtotal</b>	\$5,050.00
<b>Sales Tax (6.75%)</b>	\$0.00
<b>Total</b>	\$5,050.00
<b>Payments/Credits</b>	\$0.00
<b>Balance Due</b>	\$5,050.00


 10308 WCR 72  
 Midland, TX 79707
**Invoice**

Date	Invoice #
4/30/2022	20220503042

<b>Bill To</b>
Klaus, Inc. P.O. 1193 Drumwright, OK 74030

<b>Location</b>

AFE #	*Rig/Location*	Job Description
	CUSHING TERMINAL	provide hydrovac to spot underground line and utilities
P.O. No.	Co. Man	Drilling Rig
	Shane Hallman	

Description	Date	Ticket #	Manifest #	Truck #	Disposal Loc...	UOM	Qty	Rate	Amount
Hydro Vac	2022-04-27	20029		165		Day	1	2,400.00	2,400.00
Truck Bid									
Hydro Vac	2022-04-28	19953		165		Day	1	2,400.00	2,400.00
Truck Bid									
Hydro Vac	2022-04-29	19954		155		Day	1	2,400.00	2,400.00
Truck Bid									
Hydro Vac	2022-04-30	19955		155		Day	1	2,400.00	2,400.00
Truck Bid									

TOTAL AMOUNT DUE WITHIN 30 DAYS OF THE INVOICE DATE.

Over due invoices are subject to a late payment charge of 1.5% per month on any unpaid balances. Customer shall be responsible for any and all reasonable attorney fees associated with the collection of unpaid balances.

MAKE ALL CHECKS PAYABLE TO MULHOLLAND ENERGY SERVICES.

<b>Subtotal</b>	\$9,600.00
<b>Sales Tax (6.75%)</b>	\$0.00
<b>Total</b>	\$9,600.00
<b>Payments/Credits</b>	\$0.00
<b>Balance Due</b>	\$9,600.00



10308 WCR 72  
Midland, TX 79707

# Invoice

Date	Invoice #
5/5/2022	20220509082

Bill To
Klaus, Inc. P.O. 1193 Drumwright, OK 74030

Location
Pleasanton, TX

AFE #	*Rig/Location*	Job Description
	CUSHING TERMINAL	PROVIDE HYDROVAC TO SPOT UNDERGROUND LINES & UTILITIES
P.O. No.	Co. Man	Drilling Rig
Manifold 206	Shane Hallman	

Description	Date	Ticket #	Manifest #	Truck #	Disposal Loc...	UOM	Qty	Rate	Amount
Hydro Vac	2022-05-02	20805		165		Day	1	2,400.00	2,400.00
Truck Bid									
Hydro Vac	2022-05-03	20554		165		Day	1	2,400.00	2,400.00
Truck Bid									
Hydro Vac	2022-05-04	20558		Na	165		1	2,400.00	2,400.00
Truck Bid									
Hydro Vac	2022-05-05	20567		Na	155		1	2,400.00	2,400.00
Truck Bid									

TOTAL AMOUNT DUE WITHIN 30 DAYS OF THE INVOICE DATE.

Over due invoices are subject to a late payment charge of 1.5% per month on any unpaid balances. Customer shall be responsible for any and all reasonable attorney fees associated with the collection of unpaid balances.

MAKE ALL CHECKS PAYABLE TO MULHOLLAND ENERGY SERVICES.

<b>Subtotal</b>	\$9,600.00
<b>Sales Tax (6.75%)</b>	\$0.00
<b>Total</b>	\$9,600.00
<b>Payments/Credits</b>	\$0.00
<b>Balance Due</b>	\$9,600.00



10308 WCR 72  
Midland, TX 79707  
(432)695-4111

## Invoice

Date	Invoice #
5/9/2022	223831

### Bill To

Klaus, Inc.  
P.O. 1193  
Drumwright, OK 74030

P.O. Number	*Rig/Location*	Job Description		
		POTHOLING -TRENCHING		
DATE	DESCRIPTION	QUANTITY	RATE	AMOUNT
5/9/2022	Hydro Vac Truck 166 H24051	1	2,400.00	2,400.00
5/10/2022	Hydro Vac Truck 166 H24052	1	2,400.00	2,400.00
5/11/2022	Hydro Vac Truck 166 H24053	1	2,400.00	2,400.00
5/12/2022	Hydro Vac Truck 166 H24054	1	2,400.00	2,400.00

  

TOTAL AMOUNT DUE WITHIN 30 DAYS OF THE INVOICE DATE. Over due invoices are subject to a late payment charge of 1.5% per month on any unpaid balances. Customer shall be responsible for any and all reasonable attorney fees associated with the collection of unpaid balances. MAKE ALL CHECKS PAYABLE TO MULHOLLAND ENERGY SERVICES.		Total \$9,600.00
--	--	------------------



10308 WCR 72  
Midland, TX 79707  
(432)695-4111

## Invoice

Date	Invoice #
5/21/2022	2204080

### Bill To

Klaus, Inc.  
P.O. 1193  
Drumwright, OK 74030

P.O. Number	*Rig/Location*	Job Description		
		POTHOLING AND TRENCHING		
DATE	DESCRIPTION	QUANTITY	RATE	AMOUNT
5/16/2022	Hydro Vac Truck 166 H24055-	1	2,400.00	2,400.00
5/17/2022	Hydro Vac Truck 166 H24056-	1	2,400.00	2,400.00
5/18/2022	Hydro Vac Truck 166 H24057	1	2,400.00	2,400.00
5/19/2022	Hydro Vac Truck 166 H24058	1	2,400.00	2,400.00
5/20/2022	Hydro Vac Truck 166 H24059	1	2,400.00	2,400.00
5/21/2022	Hydro Vac Truck 166 H24060	1	2,400.00	2,400.00

  

TOTAL AMOUNT DUE WITHIN 30 DAYS OF THE INVOICE DATE. Over due invoices are subject to a late payment charge of 1.5% per month on any unpaid balances. Customer shall be responsible for any and all reasonable attorney fees associated with the collection of unpaid balances. MAKE ALL CHECKS PAYABLE TO MULHOLLAND ENERGY SERVICES.		Total	\$14,400.00
--	--	-------	-------------



10308 WCR 72  
Midland, TX 79707  
(432)695-4111

## Invoice

Date	Invoice #
5/26/2022	224500

### Bill To

Klaus, Inc.  
P.O. 1193  
Drumwright, OK 74030

		Job Description		
P.O. Number	*Rig/Location*	POTHOLING/TRENCHING		
DATE	DESCRIPTION	QUANTITY	RATE	AMOUNT
5/23/2022	Hydro Vac Truck 166 H24061	1	2,400.00	2,400.00
5/24/2022	Hydro Vac Truck 166 H24062	1	2,400.00	2,400.00
5/26/2022	Hydro Vac Truck 166 H24063	1	2,400.00	2,400.00
<b>TOTAL AMOUNT DUE WITHIN 30 DAYS OF THE INVOICE DATE.</b> Over due invoices are subject to a late payment charge of 1.5% per month on any unpaid balances. Customer shall be responsible for any and all reasonable attorney fees associated with the collection of unpaid balances. MAKE ALL CHECKS PAYABLE TO MULHOLLAND ENERGY SERVICES.		<b>Total</b>	\$7,200.00	



**MULHOLLAND  
ENERGY SERVICES**

10308 WCR 72  
Midland, TX 79707  
(432)695-4111

## **Invoice**

Date	Invoice #
6/8/2022	225223

**BILL TO**

Klaus, Inc.  
P.O. 1193  
Drumwright, OK 74030

		Job Description		
P.O. Number	*Rig/Location*	Potholing- Trench		
DATE	DESCRIPTION	QUANTITY	RATE	AMOUNT
6/7/2022	Hydro Vac Truck 166 -H24072	1	2,400.00	2,400.00
6/8/2022	Hydro Vac Truck 166 -H24073	1	2,400.00	2,400.00
6/8/2022	Fresh Water Fee-HYDRO	30	1.50	45.00T
	Logan County Oklahoma Sales Tax		5.25%	2.36

# **Exhibit**

**"B"**

UNSWORN DECLARATION FOR SUIT ON A SWORN ACCOUNT

1. My name is Stacey Parker.
2. I am the Office & Collections Mgr of Mulholland Energy Services ("Plaintiff") and I have care, custody and control of all records concerning the account of Klaus, Inc. ("Defendant" or "Defendants").
3. These records show that, as of June 8, 2022 the total principal balance of \$ 89,097.36 (USD), exclusive of interest, is due and payable by Defendant to Plaintiff and demand for payment was made more than 30 days ago.
4. I hereby aver that the claim attached to Plaintiff's Original Petition is within my personal knowledge, is just and true, is due by Defendant to Plaintiff, and that all just and lawful offsets, payments, and credits to this account have been allowed..

My name is Stacey Parker, my date of birth is 8/22/64, and my address is 10308 WCR 72, Midland, TX 79707 in Midland County/Parish, State of Texas, U.S.A.. I declare under penalty of perjury that I have read this unsworn declaration, that its contents are within my personal knowledge, and that it is true and correct.

Executed in Midland County/Parish, State of Texas, U.S.A. on August 14, 2023.

/s/ Stacey Parker  
Declarant

# Citation Issued

Sept. 28, 2023

**CITATION - personal service - TRC 99  
Cause No. 23-09-0608-CVA**

IN THE COUNTY COURT AT LAW  
OF  
ATASCOSA COUNTY, TEXAS

## THE STATE OF TEXAS

TO: KLAUS INC., BY SERVING ITS REGISTERED AGENT KELLY D. KLAUS, 7403 E. ESECO ROAD,  
CUSHING, OK 74023, Defendant, Greeting-

**NOTICE TO DEFENDANT:** "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 am on the Monday next following the expiration of 20 day after the date you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at [TexasLawHelp.org](http://TexasLawHelp.org)." TRCP. 99

You are hereby commanded to appear by filing a written answer to the PLAINTIFF'S ORIGINAL PETITION at or before 10:00 o'clock A.M. on the Monday next after the expiration of 20 days after the date of service of this citation, before the Honorable COUNTY COURT AT LAW Court of Atascosa County, Texas, at the Courthouse in said County in Jourdanton, Texas. Said PLAINTIFF'S ORIGINAL PETITION was filed in said court on the 28th day of September, 2023 in the above entitled cause.

The nature of Plaintiff's demand is fully shown by a true and correct copy of PLAINTIFF'S ORIGINAL PETITION accompany this citation and made a part hereof

[redacted] issued and given under my hand and seal of said Court at [redacted] ourdanton Texas this 4th day of October 2023

**Attorney for Plaintiff or Plaintiff:  
JASON LEE VAN DYKE  
1417 E. MCKINNEY STREET  
DENTON, TX 76209**

Clerk of the Court:  
MARGARET E. LITTLETON, DISTRICT CLERK  
1 COURTHOUSE CIRCLE DR. STE. 4-B  
JOURDANSON TX 78026  
By: Ashley Reynolds  
ASHLEY REYNOLDS, DEPUTY



OFFICER'S RETURN

CAUSE #23-09-0608-CVA

MULHOLLAND ENERGY SERVICES, LLC  
-VS-  
KLAUS, INC.  
  
NAME AND ADDRESS FOR SERVICE:  
KLAUS INC. BY SERVING ITS REGISTERED AGENT KELLY D. KLAUS  
7403 E. ESECO ROAD  
CUSHING, OK 74023

Came to hand on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_, o'clock \_\_\_\_\_.m., and  
executed in \_\_\_\_\_ County, Texas by delivering to each of the within named defendants in person, a  
true copy of this Citation with the date of delivery endorsed thereon, together with the accompanying copy of the  
PLAINTIFF'S ORIGINAL PETITION, at the following times and places, to-wit:

Name	Date/Time	Place, Course and Distance from Courthouse
_____	_____	_____
And not executed as to the defendant(s), _____	_____	_____
The diligence used in finding said defendant(s) being: _____	_____	_____
and the cause or failure to execute this process is: _____	_____	_____
and the information received as to the whereabouts of said defendant(s) being: _____	_____	_____
FEES: Serving Petition and Copy \$ _____ Total \$ _____	_____	_____
By: _____	_____	_____ Deputy
_____	_____	Affiant
<p><b><u>COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.</u></b></p> <p>In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The signature is not required to be verified. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return shall be signed under penalty of perjury and contain the following:</p> <p>My name is _____ (First, Middle, Last), my date of birth is _____, and my address is _____ (Street, City, Zip) I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT. Executed in _____ County, State of _____, on the _____ day of _____</p> <p>Declarant/Authorized Process Server (Id # &amp; expiration of certification)</p>		

# Citation Issued

Dec. 25, 2023

**CITATION - personal service -TRC 99**  
Cause No. 23-09-0608-CVA

MULHOLLAND ENERGY SERVICES, LLC § IN THE COUNTY COURT AT LAW  
-VS- § OF  
KLAUS, INC. § ATASCOSA COUNTY, TEXAS

# THE STATE OF TEXAS

TO: KLAUS,INC. BY SERVING THROUGH THE TEXAS SECRETARY OF STATE, 7403 E. ESECO ROAD,  
CUSHING, OK 74023, Defendant, Greeting-

**NOTICE TO DEFENDANT:** "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 am on the Monday next following the expiration of 20 day after the date you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at [TexasLawHelp.org](http://TexasLawHelp.org)." *TRCP. 99*

You are hereby commanded to appear by filing a written answer to the PLAINTIFF'S FIRST AMENDED PETITION at or before 10:00 o'clock A.M. on the Monday next after the expiration of 20 days after the date of service of this citation, before the Honorable COUNTY COURT AT LAW Court of Atascosa County, Texas, at the Courthouse in said County in Jourdanton, Texas. Said PLAINTIFF'S FIRST AMENDED PETITION was filed in said court on the 26th day of December, 2023 in the above entitled cause.

The nature of Plaintiff's demand is fully shown by a true and correct copy of PLAINTIFF'S FIRST AMENDED PETITION accompany this citation and made a part hereof.

Issued and given under my hand and seal of said Court at Jourdanton, Texas this 2nd day of January, 2024.

Attorney for Plaintiff or Plaintiff:  
JASON LEE VAN DYKE  
1417 E. MCKINNEY STREET,  
DENTON, TX 76209



Clerk of the Court:  
MARGARET E. LITTLETON, DISTRICT CLERK  
1 COURTHOUSE CIRCLE DR. STE. 4-B  
JOURDANON, TX 78026

By: JACQUIE PALACIOS, DEPUTY

**OFFICER'S RETURN**

**CAUSE #23-09-0608-CVA**

MULHOLLAND ENERGY SERVICES, LLC  
VS.  
KLAUS, INC.

IN THE COUNTY COURT AT LAW  
OF  
ATASCOSA COUNTY, TEXAS

**NAME AND ADDRESS FOR SERVICE:**

KLAUS, INC. BY SERVING THROUGH THE TEXAS SECRETARY OF STATE  
7403 E. ESECO ROAD  
CUSHING, OK 74023

Came to hand on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_, o'clock \_\_\_\_\_.m., and  
executed in \_\_\_\_\_ County, Texas by delivering to each of the within named defendants in person, a  
true copy of this Citation with the date of delivery endorsed thereon, together with the accompanying copy of the  
PLAINTIFF'S FIRST AMENDED PETITION, at the following times and places, to-wit:

Name	Date/Time	Place, Course and Distance from Courthouse
_____	_____	_____

And not executed as to the defendant(s), \_\_\_\_\_

The diligence used in finding said defendant(s) being:

and the cause or failure to execute this process is:

and the information received as to the whereabouts of said defendant(s) being:

**FEES:**  
Serving Petition and Copy \$ \_\_\_\_\_, Officer  
Total \$ \_\_\_\_\_, County, Texas  
By: \_\_\_\_\_, Deputy

\_\_\_\_\_ Affiant

**COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT.**

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall sign the return. The signature is not required to be verified. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return shall be signed under penalty of perjury and contain the following:

My name is \_\_\_\_\_, my date of birth is \_\_\_\_\_, and my address is \_\_\_\_\_  
(First, Middle, Last)

(Street, City, Zip) \_\_\_\_\_

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed in \_\_\_\_\_ County, State of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_ Declarant/Authorized Process Server

\_\_\_\_\_ (Id # & expiration of certification)

# **Plaintiff's First Amended Petition**

**Dec. 25, 2023**

CAUSE NO. 23-09-0608-CVA

MULHOLLAND ENERGY SERVICES, LLC § IN THE COUNTY COURT  
Plaintiff, §  
§  
v. § AT LAW OF  
§  
KLAUS, INC. §  
Defendant. § ATASCOSA COUNTY, TEXAS

**PLAINTIFF'S FIRST AMENDED PETITION**

**I. DISCOVERY CONTROL PLAN**

1.1 This is a track one case. Plaintiff seeks monetary relief in the amount of \$250,000.00 or less including damages of any kind, pre-judgment interest, and attorney fees. This is an expedited action.

**II. PARTIES**

2.1 Plaintiff is Mulholland Energy Services, LLC ("Plaintiff"), a Texas limited liability company, whose address is 10308 WCR 72, Midland, TX 79707.

2.2 Defendant, Klaus, Inc., an Oklahoma corporation, may be served with process by and through the Texas Secretary of State because (a) Klaus, Inc. is a foreign entity that has failed to appoint or does not maintain a registered agent in the State of Texas; and (b) Defendant's registered agent in the State of Oklahoma could not, with reasonable diligence, be located at the registered office. Tex. Bus. Orgs. Code § 5.251(1)(A)-(B). This entity does not maintain an address on file with the Texas Secretary of State. However, the most recent address of this entity on file with the Oklahoma Secretary of State is 7403 E Eesco Road, Cushing, OK 74023.

See Ex. C.

FIRST AMENDED PETITION

Filed 12/26/2023 12:00 AM  
Margaret E. Littleton  
District Clerk  
Atascosa County, Texas  
Reviewed By: Jacquie Palacios

- 2.3 Jurisdiction is proper because Plaintiff seeks monetary damages that are within the jurisdictional limits of this Court.
- 2.4 Venue is appropriate in this Court because Defendant's principal office is located in Harris County, Texas.

### **III. FACTS**

- 3.1 In the ordinary course of business Plaintiff sold to Defendant one or more items of goods, wares, merchandise, or services, as described, and shown on the invoices attached hereto as Exhibit "A" and incorporated by reference herein.
- 3.2 This account represents a transaction or series of transactions for which a systematic record has been kept.
- 3.3 The prices charged for each item were just and true because they were either (a) according to the terms of a written contract; or (b) the usual, customary, and reasonable prices for each item.
- 3.4 The account remains unpaid. The principal balance due to Plaintiff on the account is \$89,097.36, exclusive of interest, after all just and lawful offsets, payments, and credits have been allowed.
- 3.5 This is a suit on a sworn account brought pursuant to Rule 185 of the Texas Rules of Civil Procedure. See Ex. B.
- 3.6 All conditions precedent to Plaintiff's claim for relief have been performed or have occurred.

### **IV. ATTORNEY FEES**

FIRST AMENDED PETITION

4.1 The failure and refusal of Defendant to pay its lawful debts has made it necessary for Plaintiff employ the undersigned attorney to file suit. This claim was timely presented to Defendant remains unpaid. Reasonable fees for the attorney's services rendered and to be rendered through trial and appeal are at least \$26,729.20. Plaintiff's entitlement to attorney fees is pursuant to Tex. Civ. Prac. & Rem. Code § 38.001(7).

**V. PRAYER**

- 5.1 Plaintiff prays that Defendant be cited to appear and answer and that;
- a. Plaintiff be granted judgment against Defendant for actual damages in the amount of \$89,097.36
  - b. Plaintiff be granted judgment for prejudgment and post-judgment interest at the highest rate permitted by law or contract;
  - c. Plaintiff be granted judgment for its reasonable attorney's fees in the amount of at least \$26,729.20 with additional contingent amounts in the event of appellate proceedings;
  - d. Plaintiff be granted judgment for all costs of court; and
  - e. Plaintiff be granted all such further relief, in law and in equity, to which he may show himself to be justly entitled.

Respectfully submitted,

**Magana & Van Dyke, PLLC**

/s/ Jason Lee Van Dyke  
Jason Lee Van Dyke  
Bar No. 24057426  
1417 E. McKinney St., #110  
Denton, TX 76209  
P - (940) 382-1976  
F - (469) 453-3031  
Email: jason@marsalalawgroup.com

# **Exhibit**

**"A"**



10308 WCR 72  
Midland, TX 79707

## Invoice

Date	Invoice #
4/2/2022	20220405041

Bill To
Klaus, Inc. P.O. 1193 Drumwright, OK 74030

Location
Pleasanton, TX

AFE #	*Rig/Location*	Job Description
	CUSHING TERMINAL	PROVIDE HYDROVAC TO SPOT UNDERGROUND LINES & UTILITIES
P.O. No.	Co. Man	
Manifold 206	Shane Hallman	

Description	Date	Ticket #	Manifest #	Truck #	Disposal Loc.	UOM	Qty	Rate	Amount
Hydro Vac	2022-03-30	17285		155		Day	1	2,400.00	2,400.00
Truck Bid									
Hydro Vac	2022-03-31	17286		155		Day	1	2,400.00	2,400.00
Truck Bid									
Hydro Vac	2022-04-01	17287		155		Day	1	2,400.00	2,400.00
Truck Bid									
Hydro Vac	2022-04-02	17351		155		Day	1	2,400.00	2,400.00
Truck Bid									

**TOTAL AMOUNT DUE WITHIN 30 DAYS OF THE INVOICE DATE.**

Over due invoices are subject to a late payment charge of 1.5% per month on any unpaid balances. Customer shall be responsible for any and all reasonable attorney fees associated with the collection of unpaid balances.

**MAKE ALL CHECKS PAYABLE TO MULHOLLAND ENERGY SERVICES.**

<b>Subtotal</b>	<b>\$9,600.00</b>
<b>Sales Tax (6.75%)</b>	<b>\$0.00</b>
<b>Total</b>	<b>\$9,600.00</b>
<b>Payments/Credits</b>	<b>\$0.00</b>
<b>Balance Due</b>	<b>\$9,600.00</b>



10308 WCR 72  
Midland, TX 79707

## Invoice

Date	Invoice #
4/9/2022	20220412053

Bill To
Klaus, Inc. P.O. 1193 Drumwright, OK 74030

Location
Pleasanton, TX

AFE #	*Rig/Location*	Job Description
Na Na	CUSHING TERMINAL	PROVIDE HYDROVAC TO SPOT UNDERGROUND LINES & UTILITIES
P.O. No.	Co. Man	Drilling Rig
NA	Shane Hallman	Na

Description	Date	Ticket #	Manifest #	Truck #	Disposal Loc.	UOM	Qty	Rate	Amount
Hydro Vac Truck Bid	2022-04-04	17677		Na	155	Day	1	2,400.00	2,400.00
Hydro Vac Truck Bid	2022-04-05	17678		A	155	Day	1	2,400.00	2,400.00
Hydro Vac Truck Bid	2022-04-06	17946		Na	155	Day	1	2,400.00	2,400.00
Hydro Vac Truck Bid	2022-04-07	17947		Na	155	Day	1	2,400.00	2,400.00
Hydro Vac Truck Bid	2022-04-08	17895			141	Day	1	2,400.00	2,400.00
Hydro Vac Truck Bid	2022-04-08	17896			141	Day	1	2,400.00	2,400.00
Hydro Vac Truck Bid	2022-04-08	17949		Na	Na	Day	1	2,400.00	2,400.00
Hydro Vac Truck Bid	2022-04-09	17951		Na	155	Day	1	2,400.00	2,400.00

TOTAL AMOUNT DUE WITHIN 30 DAYS OF THE INVOICE DATE.

Over due invoices are subject to a late payment charge of 1.5% per month on any unpaid balances. Customer shall be responsible for any and all reasonable attorney fees associated with the collection of unpaid balances.

MAKE ALL CHECKS PAYABLE TO MULHOLLAND ENERGY SERVICES.

<b>Subtotal</b>	\$19,200.00
<b>Sales Tax (6.75%)</b>	\$0.00
<b>Total</b>	\$19,200.00
<b>Payments/Credits</b>	\$0.00
<b>Balance Due</b>	\$19,200.00



10308 WCR 72  
Midland, TX 79707

# Invoice

Date	Invoice #
4/12/2022	20220419018

Bill To
Klaus, Inc. P.O. 1193 Drumwright, OK 74030

Location
Pleasanton, TX

AFE #	*Rig/Location*	Job Description
	CUSHING TERMINAL	PROVIDE HYDROVAC TO SPOT UNDERGROUND LINES & UTILITIES
P.O. No.	Co. Man	Drilling Rig
Manifold 206	Shane Hallman	

Description	Date	Ticket #	Manifest #	Truck #	Disposal Loc...	UOM	Qty	Rate	Amount
Hydro Vac Truck Bid	2022-04-11	17953		155		Day	1	2,400.00	2,400.00
Mob/Demob Per Diem	2022-04-12	18577		155		Day	1	2,400.00	2,400.00
	2022-04-12	18577		155		Day	1	250.00	250.00

TOTAL AMOUNT DUE WITHIN 30 DAYS OF THE INVOICE DATE.

Over due invoices are subject to a late payment charge of 1.5% per month on any unpaid balances. Customer shall be responsible for any and all reasonable attorney fees associated with the collection of unpaid balances.

MAKE ALL CHECKS PAYABLE TO MULHOLLAND ENERGY SERVICES.

<b>Subtotal</b>	\$5,050.00
<b>Sales Tax (6.75%)</b>	\$0.00
<b>Total</b>	\$5,050.00
<b>Payments/Credits</b>	\$0.00
<b>Balance Due</b>	\$5,050.00


 10308 WCR 72  
 Midland, TX 79707
**Invoice**

Date	Invoice #
4/30/2022	20220503042

<b>Bill To</b>
Klaus, Inc. P.O. 1193 Drumwright, OK 74030

<b>Location</b>

AFE #	*Rig/Location*	Job Description
	CUSHING TERMINAL	provide hydrovac to spot underground line and utilities
P.O. No.	Co. Man	Drilling Rig
	Shane Hallman	

Description	Date	Ticket #	Manifest #	Truck #	Disposal Loc...	UOM	Qty	Rate	Amount
Hydro Vac	2022-04-27	20029		165		Day	1	2,400.00	2,400.00
Truck Bid									
Hydro Vac	2022-04-28	19953		165		Day	1	2,400.00	2,400.00
Truck Bid									
Hydro Vac	2022-04-29	19954		155		Day	1	2,400.00	2,400.00
Truck Bid									
Hydro Vac	2022-04-30	19955		155		Day	1	2,400.00	2,400.00
Truck Bid									

TOTAL AMOUNT DUE WITHIN 30 DAYS OF THE INVOICE DATE.

Over due invoices are subject to a late payment charge of 1.5% per month on any unpaid balances. Customer shall be responsible for any and all reasonable attorney fees associated with the collection of unpaid balances.

MAKE ALL CHECKS PAYABLE TO MULHOLLAND ENERGY SERVICES.

<b>Subtotal</b>	\$9,600.00
<b>Sales Tax (6.75%)</b>	\$0.00
<b>Total</b>	\$9,600.00
<b>Payments/Credits</b>	\$0.00
<b>Balance Due</b>	\$9,600.00



10308 WCR 72  
Midland, TX 79707

# Invoice

Date	Invoice #
5/5/2022	20220509082

Bill To
Klaus, Inc. P.O. 1193 Drumwright, OK 74030

Location
Pleasanton, TX

AFE #	*Rig/Location*	Job Description
	CUSHING TERMINAL	PROVIDE HYDROVAC TO SPOT UNDERGROUND LINES & UTILITIES
P.O. No.	Co. Man	Drilling Rig
Manifold 206	Shane Hallman	

Description	Date	Ticket #	Manifest #	Truck #	Disposal Loc...	UOM	Qty	Rate	Amount
Hydro Vac	2022-05-02	20805		165		Day	1	2,400.00	2,400.00
Truck Bid									
Hydro Vac	2022-05-03	20554		165		Day	1	2,400.00	2,400.00
Truck Bid									
Hydro Vac	2022-05-04	20558		Na	165		1	2,400.00	2,400.00
Truck Bid									
Hydro Vac	2022-05-05	20567		Na	155		1	2,400.00	2,400.00
Truck Bid									

TOTAL AMOUNT DUE WITHIN 30 DAYS OF THE INVOICE DATE.

Over due invoices are subject to a late payment charge of 1.5% per month on any unpaid balances. Customer shall be responsible for any and all reasonable attorney fees associated with the collection of unpaid balances.

MAKE ALL CHECKS PAYABLE TO MULHOLLAND ENERGY SERVICES.

<b>Subtotal</b>	\$9,600.00
<b>Sales Tax (6.75%)</b>	\$0.00
<b>Total</b>	\$9,600.00
<b>Payments/Credits</b>	\$0.00
<b>Balance Due</b>	\$9,600.00



10308 WCR 72  
Midland, TX 79707  
(432)695-4111

## Invoice

Date	Invoice #
5/9/2022	223831

### Bill To

Klaus, Inc.  
P.O. 1193  
Drumwright, OK 74030

P.O. Number	*Rig/Location*	Job Description		
		POTHOLING -TRENCHING		
DATE	DESCRIPTION	QUANTITY	RATE	AMOUNT
5/9/2022	Hydro Vac Truck 166 H24051	1	2,400.00	2,400.00
5/10/2022	Hydro Vac Truck 166 H24052	1	2,400.00	2,400.00
5/11/2022	Hydro Vac Truck 166 H24053	1	2,400.00	2,400.00
5/12/2022	Hydro Vac Truck 166 H24054	1	2,400.00	2,400.00

  

TOTAL AMOUNT DUE WITHIN 30 DAYS OF THE INVOICE DATE. Over due invoices are subject to a late payment charge of 1.5% per month on any unpaid balances. Customer shall be responsible for any and all reasonable attorney fees associated with the collection of unpaid balances. MAKE ALL CHECKS PAYABLE TO MULHOLLAND ENERGY SERVICES.		Total \$9,600.00
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10308 WCR 72  
Midland, TX 79707  
(432)695-4111

## Invoice

Date	Invoice #
5/21/2022	2204080

### Bill To

Klaus, Inc.  
P.O. 1193  
Drumwright, OK 74030

P.O. Number	*Rig/Location*	Job Description		
		POTHOLING AND TRENCHING		
DATE	DESCRIPTION	QUANTITY	RATE	AMOUNT
5/16/2022	Hydro Vac Truck 166 H24055-	1	2,400.00	2,400.00
5/17/2022	Hydro Vac Truck 166 H24056-	1	2,400.00	2,400.00
5/18/2022	Hydro Vac Truck 166 H24057	1	2,400.00	2,400.00
5/19/2022	Hydro Vac Truck 166 H24058	1	2,400.00	2,400.00
5/20/2022	Hydro Vac Truck 166 H24059	1	2,400.00	2,400.00
5/21/2022	Hydro Vac Truck 166 H24060	1	2,400.00	2,400.00

  

TOTAL AMOUNT DUE WITHIN 30 DAYS OF THE INVOICE DATE. Over due invoices are subject to a late payment charge of 1.5% per month on any unpaid balances. Customer shall be responsible for any and all reasonable attorney fees associated with the collection of unpaid balances. MAKE ALL CHECKS PAYABLE TO MULHOLLAND ENERGY SERVICES.	<b>Total</b>	\$14,400.00
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10308 WCR 72  
Midland, TX 79707  
(432)695-4111

## Invoice

Date	Invoice #
5/26/2022	224500

### Bill To

Klaus, Inc.  
P.O. 1193  
Drumwright, OK 74030

		Job Description		
P.O. Number	*Rig/Location*	POTHOLING/TRENCHING		
DATE	DESCRIPTION	QUANTITY	RATE	AMOUNT
5/23/2022	Hydro Vac Truck 166 H24061	1	2,400.00	2,400.00
5/24/2022	Hydro Vac Truck 166 H24062	1	2,400.00	2,400.00
5/26/2022	Hydro Vac Truck 166 H24063	1	2,400.00	2,400.00
<b>TOTAL AMOUNT DUE WITHIN 30 DAYS OF THE INVOICE DATE.</b> Over due invoices are subject to a late payment charge of 1.5% per month on any unpaid balances. Customer shall be responsible for any and all reasonable attorney fees associated with the collection of unpaid balances. MAKE ALL CHECKS PAYABLE TO MULHOLLAND ENERGY SERVICES.		<b>Total</b>	\$7,200.00	



**MULHOLLAND  
ENERGY SERVICES**

10308 WCR 72  
Midland, TX 79707  
(432)695-4111

## **Invoice**

Date	Invoice #
6/8/2022	225223

**BILL TO**

Klaus, Inc.  
P.O. 1193  
Drumwright, OK 74030

		Job Description		
P.O. Number	*Rig/Location*	Potholing- Trench		
DATE	DESCRIPTION	QUANTITY	RATE	AMOUNT
6/7/2022	Hydro Vac Truck 166 -H24072	1	2,400.00	2,400.00
6/8/2022	Hydro Vac Truck 166 -H24073	1	2,400.00	2,400.00
6/8/2022	Fresh Water Fee-HYDRO	30	1.50	45.00
	Logan County Oklahoma Sales Tax		5.25%	2.36
<b>TOTAL AMOUNT DUE WITHIN 30 DAYS OF THE INVOICE DATE.</b>				
Over due invoices are subject to a late payment charge of 1.5% per month on any unpaid balances. Customer shall be responsible for any and all reasonable attorney fees associated with the collection of unpaid balances.				
MAKE ALL CHECKS PAYABLE TO MULHOLLAND ENERGY SERVICES.				
<b>Total</b>				\$4,847.36

# **Exhibit**

**"B"**

UNSWORN DECLARATION FOR SUIT ON A SWORN ACCOUNT

1. My name is Stacey Parker.
2. I am the Office & Collections Mgr of Mulholland Energy Services ("Plaintiff") and I have care, custody and control of all records concerning the account of Klaus, Inc. ("Defendant" or "Defendants").
3. These records show that, as of June 8, 2022 the total principal balance of \$ 89,097.36 (USD), exclusive of interest, is due and payable by Defendant to Plaintiff and demand for payment was made more than 30 days ago.
4. I hereby aver that the claim attached to Plaintiff's Original Petition is within my personal knowledge, is just and true, is due by Defendant to Plaintiff, and that all just and lawful offsets, payments, and credits to this account have been allowed..

My name is Stacey Parker, my date of birth is 8/22/66, and my address is 10308 WCR 72, Midland, TX 79707 in Midland County/Parish, State of Texas, U.S.A.. I declare under penalty of perjury that I have read this unsworn declaration, that its contents are within my personal knowledge, and that it is true and correct.

Executed in Midland County/Parish, State of Texas, U.S.A. on August 14, 2023.

/s/ Stacey Parker  
Declarant

# Exhibit

"C"

[Business Services](#)[Notary](#)[Charitable Organizations](#)[Open Meetings](#)[Agricultural Liens](#)[Executive Legislative](#)

## BUSINESS ENTITIES SEARCH - VIEW ENTITY

[Print Page](#)

Order Number: 63297170002

### Details

Filing Number: 1900573565  
 Entity Name: KLAUS, INC.  
 Status: In Existence  
 Entity Type: Domestic For Profit Business Corporation  
 Jurisdiction: Oklahoma  
 Original Filing Date: Sep 27 1996  
 Duration: Perpetual  
 Entity Address: N/A

### Registered Agent Information

Name: KELLY D. KLAUS  
 Effective: Jun 25 2010  
 Address: 7403 E ESECO RD  
 City,State,ZipCode: CUSHING OK 74023

### FILING HISTORY :

Document Number	Filing Type	Filing Date
358319	Certificate of Incorporation	September 27, 1996
14757000002	Change of Registered Agent and/or Office	June 25, 2010

Name	Name Type	Name Status	Creation Date
KLAUS, INC.	Legal	In use	September 27, 1996

## PRINCIPALS

Name	Title
JOHN E FORSYTH	Incorporator

## TRADENAMES

No entries found.

## STOCKS INFORMATION

Date	Stock Type	Number of Shares	PAR Value	Amount
September 27, 1996	Common (Voting)	50000	1	\$0.00

POC: \$0

TAC: \$50000

Total Investment in OK: \$0

Qualified: NO

# Affidavit of Non-Service

Dec. 25, 2023

## AFFIDAVIT OF NON-SERVICE

<b>Case:</b> 23-09-0608-CVA	<b>Court:</b> In The County Court At Law Of Atascosa County, Texas	<b>County:</b> Atascosa	<b>Job:</b> 10077413 (Kelly D. Klaus)
<b>Plaintiff / Petitioner:</b> Mulholland Energy Services, LLC		<b>Defendant / Respondent:</b> Klaus, Inc.	
<b>Received by:</b> Judiciary Process Servers		<b>For:</b> Magana & Van Dyke, PLLC	
<b>To be served upon:</b> Kelly D. Klaus			

I, Derrick Brown, being duly sworn, depose and say: I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to make service of the documents and informed said person of the contents herein

**Recipient Name / Address:** Kelly D. Klaus, 7403 East Eseco Road, Cushing, OK 74023

**Manner of Service:** Unsuccessful Attempt

**Documents:** Plaintiff's Original Petition; Attachments/Exhibits , Citation (Issued 4th October, 2023); Officer's Return

**Additional Comments:**

1) Unsuccessful Attempt: Dec 12, 2023, 7:57 pm CST at 7403 East Eseco Road, Cushing, OK 74023

Attempted service, no answer at the door despite knocking for several minutes.

GPS Coordinates: 35.95496, -96.65590

2) Unsuccessful Attempt: Dec 13, 2023, 11:14 am CST at 7403 East Eseco Road, Cushing, OK 74023

Attempted service, no answer at the door despite knocking for several minutes.

GPS Coordinates: 35.95493, -96.65592

3) Unsuccessful Attempt: Dec 23, 2023, 8:07 am CST at 7403 East Eseco Road, Cushing, OK 74023

Attempted service, no answer at the door despite knocking for several minutes.

GPS Coordinates: 35.95491, -96.65599



December 23, 2023

Derrick Brown

Date

Judiciary Process Servers  
8482 Fort Smallwood Road, B-110  
Pasadena, Maryland 21122

Filed 12/26/2023 12:00 AM  
Margaret E. Littleton  
District Clerk  
Atascosa County, Texas  
Reviewed By: Jacquie Palacios

# Notice of Removal

January 23, 2024

**CAUSE NO. 23-09-0608-CVA**

<b>MULHOLLAND ENERGY SERVICES, LLC</b>	§	<b>IN THE COUNTY COURT</b>
	§	
<b>Plaintiff,</b>	§	
	§	
	§	
<b>v.</b>	§	<b>AT LAW OF</b>
	§	
<b>KLAUS, INC.</b>	§	
	§	
<b>Defendant.</b>	§	<b>ATASCOSA COUNTY, TEXAS</b>

**NOTICE OF REMOVAL**

TO: Clerk of the Court

**PLEASE TAKE NOTICE** that on January 23, 2024, Defendant Klaus, Inc., removed this action to the United States District Court for the Western District of Texas, San Antonio Division, by filing a *Notice of Removal* in that Court, (a copy of which is attached hereto) as **Exhibit A**. This Court is divested of jurisdiction upon the filing of this Notice.

Respectfully submitted:

**CONNER & WINTERS, LLP**

s/Scott Hathaway

Scott P. Hathaway  
 OK State Bar No. 13695  
 15 E 5th Street, Suite 4100  
 Tulsa, Oklahoma 74103  
 Tel. (918) 586-5711 | Fax (918) 586-8547  
 E-Mail: shathaway@cwlaw.com

and

Philip Racusin  
 Texas State Bar No. 24054267  
 808 Travis Street, 23<sup>rd</sup> Floor  
 Houston, Texas 77002  
 Tel. (713) 650-3850 | Fax (713) 650-3851  
 E-Service: eserviceHOU@cwlaw.com  
 E-mail: PRacusin@cwlaw.com  
**ATTORNEYS FOR DEFENDANT**  
**KLAUS, INC.**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the above and foregoing *Notice of Removal* was served on January 23, 2024, via e-mail and/or U.S. Mails, all postage prepaid thereon, as shown below, addressed to:

Magana & Van Dyke, PLLC  
Jason Lee Van Dyke  
Texas Bar No. 24057426  
1417 E. McKinney St., #110  
Denton, TX 76209  
P – (940) 382-1976  
F – (469) 453-3031  
Email: [jason@marsalalawgroup.com](mailto:jason@marsalalawgroup.com)  
**ATTORNEY FOR PLAINTIFF**  
**MULHOLLAND ENERGY**  
**SERVICES, LLC**

s/Philip Racusin  
Philip Racusin

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

MULHOLLAND ENERGY SERVICES, LLC §

Plaintiff, §  
§  
§

v. §  
§  
§  
§

CIVIL ACTION NO. 5:24-cv-93

KLAUS, INC. §  
§  
§

Defendant. §  
§  
§

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**DEFENDANT KLAUS, INC.’S NOTICE OF REMOVAL**

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Defendant Klaus, Inc., (hereinafter, “Klaus”), hereby submits this Notice of Removal of the action from the County Court at Law of Atascosa County, Texas to the United States District Court for the Western District of Texas, San Antonio Division, the District and Division encompassing the state court in which this action is pending. 28 U.S.C. § 124(a)(1). Klaus invokes this Court’s jurisdiction under the provisions of 28 U.S.C. §§ 1332, 1441, 1446 and removes this action from state court to federal court pursuant to 28 U.S.C. § 1446(a). Pursuant to 28 U.S.C. § 1446(a), Klaus provides the following statement of grounds for removal. In support, Klaus respectfully shows the Court as follows:

**A. STATEMENT OF THE CASE**

1. On December 26, 2023, Plaintiff Mulholland Energy Services, LLC (“Plaintiff” or “MES”) filed its First Amended Petition (the “Petition”), stating that Klaus could be served through the Texas Secretary of State, in the County Court at Law of Atascosa County, Texas, styled *Mulholland Energy Services, LLC v. Klaus, Inc.* and designated as Case No. 23-09-0608-

CVA (the “State Court Action”).<sup>1</sup> In accordance with 28 U.S.C. § 1446(a), a true and correct copy of all process, pleadings and orders received by Klaus from Plaintiff in this State Court Action and those records obtained directly from the Court’s file for this State Court Action are attached hereto as **Exhibit 1**.

2. The Petition alleges that Plaintiff is suing Klaus for a “suit on a sworn account brought pursuant to Rule 185 of the Texas Rules of Civil Procedure.” Petition, ¶ 3.5. For this State Court Action, Plaintiff is seeking a principal balance due of “\$89,097.36, exclusive of interest” and “[r]easonable fees for attorney’s services rendered and to be rendered through trial and appeal . . . [of] \$26,729.20.” Petition, ¶ 3.4, 4.1.

3. In support of its claims, Plaintiff alleges that “[i]n the ordinary course of business Plaintiff sold to Defendant one or more items of goods, wares, merchandise, or services, as described, and shown on the invoices attached hereto as Exhibit ‘A.’” Petition, ¶ 3.1 and its attached Exhibit A. Plaintiff alleges that the prices charges were just and true and that the account remains unpaid. *See* Petition, ¶¶ 3.3-3.4. Klaus disputes Plaintiff’s allegations.

## **B. BASIS FOR REMOVAL**

4. Removal of the State Court Action is proper under 28 U.S.C. § 1441. The Court has original jurisdiction over the State Court Action pursuant to 28 U.S.C. § 1332(a), as a civil action between citizens of different states in which the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

---

<sup>1</sup> According to online court records, Plaintiff had filed its Original Petition on September 28, 2023, and then made three unsuccessful service attempts on Defendant, as evidence by an Affidavit of Nonservice filed on December 26, 2023. Plaintiff filed its First Amended Petition on December 26, 2023, acknowledging that Defendant had not yet been served and stating its intention to serve Defendant through the Texas Secretary of State.

**I. THERE IS COMPLETE DIVERSITY OF CITIZENSHIP BETWEEN THE PLAINTIFF MES AND DEFENDANT KLAUS.**

5. According to the Petition, Plaintiff MES is a Texas limited liability company. *See* Petition ¶ 2.1. The Petition identifies Plaintiff's address as 10308 WCR 72, Midland, TX 79707. *Id.* This is located in Midland County, Texas. Plaintiff is incorporated in Texas and has its principal place of business in Texas. *See* 28 U.S.C. §§ 1332(c). Therefore, Plaintiff is a citizen of the state of Texas. *Id.*

6. Defendant Klaus is an Oklahoma corporation—a foreign entity—as the Petition acknowledges. *See* Petition ¶ 2.2. Its address is PO Box 1193, Drumright, OK 74030, Creek County, OK. Defendant Klaus is incorporated in Oklahoma and has its principal place of business in Oklahoma. *See* 28 U.S.C. §§ 1332(c). Therefore, Defendant Klaus is a citizen of the state of Oklahoma *Id*

7. Accordingly, because Plaintiff MES is a citizen of Texas and Klaus is a citizen of Oklahoma, complete diversity of citizenship exists between Plaintiff and Klaus. *See* 28 U.S.C. §§ 1332(a) and 1441(b).

**II. THE AMOUNT IN CONTROVERSY EXCEEDS \$75,000.00**

8. The amount in controversy, exclusive of interest and costs, must exceed \$75,000.00. *See* 28 U.S.C. § 1332(a).

9. Within the Petition, Plaintiff alleges that Klaus failed to pay the balance of \$89,097.36, exclusive of interest on an alleged account between Plaintiff and Klaus. *See* Petition ¶ 3.4.

10. Plaintiff further alleges that attorney fees for services rendered and to be rendered through trial and appeal are at least \$26,729.20. *Id.* ¶ 4.1.

11. Accordingly, the amount in controversy in the State Court Action exceeds \$75,000.00, as required. *See* 28 U.S.C. § 1332(a).

### **III. THE PROCEDURAL REQUIREMENTS OF REMOVAL ARE SATISFIED**

12. Pursuant to 28 U.S.C. § 1441(a), Klaus is removing this case to the United States District Court for the Western District of Texas, San Antonio Division.

13. The removal is based on complete diversity of citizenship, and the only two parties to the State Court Action are the Plaintiff, a Texas citizen, and the Defendant, an Oklahoma citizen. *See* 28 U.S.C. § 1441(b); *see also* 28 U.S.C. § 1332(a). As stated in the initial pleadings, the amount in controversy exceeds \$75,000. 28 U.S.C. § 1441(c)(2).

14. Venue is proper in the United States District Court for the Western District of Texas, San Antonio Division because it is the district and division embracing the place where the State Court Lawsuit is pending. Local Rules of the United States District Court for the Western District of Texas (eff. April 26, 2023), p. ix (stating that the “SAN ANTONIO DIVISION comprises the following counties: Atacosa . . .”), *available at* <https://www.txwd.uscourts.gov/wp-content/uploads/2023/07/TXWD-Local-Rules-Full-Copy-042623.pdf> (last visited Jan. 23, 2024).

15. The entire State Court Action may be removed to the United States District Court for the Western District of Texas, San Antonio Division. *See* 28 U.S.C. § 1441(c).

16. This Notice of Removal is timely filed pursuant. *See* 28 U.S.C. § 1446(b). Plaintiff’s original petition was filed on September 28, 2023, but Plaintiff failed to achieve service on Klaus as acknowledge in its Affidavit of Non-Service, filed on December 26, 2023. The

Petition (First Amended Petition) was filed on December 26, 2023, stating that Klaus had not yet been served. Subsequent to December 26, 2023, counsel for Plaintiff and counsel for Defendant Klaus thereafter agreed to accept service of the Petition as of January 2, 2024. *See EXHIBIT 1*, attached hereto, Email between Counsel. Consequently, less than 30 days have passed since Klaus accepted service. *See 28 U.S.C. § 1446(b)*.

17. Klaus is providing Plaintiff with written notice of the filing of this Notice of Removal as required.

18. Klaus is contemporaneously filing a copy of this Notice of Removal and a Notice of Filing of Notice of Removal with the Clerk of the County Court of Atascosa County, State of Texas. *See 28 U.S.C. § 1446(d)*.

19. Klaus reserves the right to amend or supplement this Notice of Removal.

**PRAYER**

WHEREFORE, Defendant Klaus, LLC respectfully requests that this Honorable Court remove the State Court Action styled *Mulholland Energy Services, LLC v. Klaus, Inc.* and designated as Case No. 23-09-0608-CVA, in the County Court at Law of Atascosa County, Texas, to this Federal court.

Respectfully submitted,

**CONNER & WINTERS, LLP**

s/Scott Hathaway

Scott P. Hathaway  
OK State Bar No. 13695  
4000 One Williams Center  
Tulsa, Oklahoma 74103  
Tel. (918) 586-5711 | Fax (918) 586-8547  
E-Mail: shathaway@cwlaw.com

and

Philip Racusin  
Texas State Bar No. 24054267  
808 Travis Street, 23<sup>rd</sup> Floor  
Houston, Texas 77002  
Tel. (713) 650-3850 | Fax (713) 650-3851  
E-Service: eserviceHOU@cwlaw.com  
E-mail: PRacusin@cwlaw.com  
**ATTORNEYS FOR DEFENDANT**  
**KLAUS, INC.**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the above and foregoing *Notice of Removal* was served on January 23, 2024, via e-mail and/or U.S. Mails, all postage prepaid thereon, as shown below, addressed to:

Magana & Van Dyke, PLLC  
Jason Lee Van Dyke  
Texas Bar No. 24057426  
1417 E. McKinney St., #110  
Denton, TX 76209  
P – (940) 382-1976  
F – (469) 453-3031  
Email: [jason@marsalalawgroup.com](mailto:jason@marsalalawgroup.com)  
**ATTORNEY FOR PLAINTIFF**  
**MULHOLLAND ENERGY**  
**SERVICES, LLC**

s/Philip Racusin

Philip Racusin

**5:24-cv-93**

**EXHIBIT 1**

# **Email between Counsel Agreeing to Service Date of Jan. 2, 2024**

## Philip Racusin

---

**From:** Jason Van Dyke <jason@marsalalawgroup.com>  
**Sent:** Tuesday, January 2, 2024 6:01 PM  
**To:** Scott Hathaway  
**Subject:** RE: Petition

[External Email]

---

We are in agreement.

## Magana & Van Dyke, PLLC

**Jason L. Van Dyke**  
**Attorney at Law, Receiver**  
1417 E. McKinney Street  
Suite 110  
Denton, TX 76209  
P – (940) 382-1976  
F – (469) 453-3031

Licensed to practice law in Texas, Colorado, Georgia and the District of Columbia.

---

**From:** Scott Hathaway <shathaway@cwlaw.com>  
**Sent:** Tuesday, January 2, 2024 5:16 PM  
**To:** Jason Van Dyke <jason@marsalalawgroup.com>  
**Cc:** Isaac R. Ellis <IEllis@cwlaw.com>; Shelly D. Jones <SJones@cwlaw.com>  
**Subject:** RE: Petition

Jason,

It was good speaking with you today. As we discussed today, I have agreed to accept service of the Petition referenced below against Klause, Inc. We also agreed that my client's deadline for filing a responsive pleading is January 24, 2024. Please reply to this email stating your agreement to this deadline. I look forward to working with you on this matter.

Best,

Scott



Scott Hathaway | Partner  
P: 918.586.8510 | C: 918.850.3436

---

**From:** Jason Van Dyke <jason@marsalalawgroup.com>  
**Sent:** Thursday, December 28, 2023 4:20 PM  
**To:** Scott Hathaway <shathaway@cwlaw.com>  
**Subject:** Re: Petition

[External Email]

I hope I can call you Tuesday. Out of town on vacation until then

Sent via the Samsung Galaxy S22 5G, an AT&T 5G smartphone

Get [Outlook for Android](#)

---

**From:** Scott Hathaway <[shathaway@cwlaw.com](mailto:shathaway@cwlaw.com)>  
**Sent:** Thursday, December 28, 2023 3:55:13 PM  
**To:** Jason Van Dyke <[jason@marsalalawgroup.com](mailto:jason@marsalalawgroup.com)>  
**Subject:** RE: Petition

Jason,

I have spoken with my client about this matter. Please give me a call and we can discuss the matter further, including a date of service and corresponding answer date. I plan to bring the Project Owner in as a third party defendant as they have not paid my client for your client's services.

Thanks,

Scott



**Scott Hathaway | Partner**  
**Conner & Winters, LLP**  
15 E 5th St  
Suite 4100  
Tulsa, OK 74103  
**P:** 918.586.8510 | **C:** 918.850.3436  
**E:** [shathaway@cwlaw.com](mailto:shathaway@cwlaw.com)  
[cwlaw.com](http://cwlaw.com) |



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---

**From:** Jason Van Dyke <[jason@marsalalawgroup.com](mailto:jason@marsalalawgroup.com)>  
**Sent:** Wednesday, December 27, 2023 4:34 PM  
**To:** Scott Hathaway <[shathaway@cwlaw.com](mailto:shathaway@cwlaw.com)>  
**Subject:** Petition

[External Email]

---

## Magana & Van Dyke, PLLC

**Jason L. Van Dyke**  
**Attorney at Law, Receiver**  
1417 E. McKinney Street  
Suite 110

Denton, TX 76209

P – (940) 382-1976

F – (469) 453-3031

Licensed to practice law in Texas, Colorado, Georgia and the District of Columbia.

# **Plaintiff's First Amended Petition**

**(the subject of the foregoing email)**

CAUSE NO. 23-09-0608-CVA

MULHOLLAND ENERGY SERVICES, LLC § IN THE COUNTY COURT  
Plaintiff, §  
§  
v. § AT LAW OF  
§  
KLAUS, INC. §  
Defendant. § ATASCOSA COUNTY, TEXAS

**PLAINTIFF'S FIRST AMENDED PETITION**

**I. DISCOVERY CONTROL PLAN**

1.1 This is a track one case. Plaintiff seeks monetary relief in the amount of \$250,000.00 or less including damages of any kind, pre-judgment interest, and attorney fees. This is an expedited action.

**II. PARTIES**

2.1 Plaintiff is Mulholland Energy Services, LLC ("Plaintiff"), a Texas limited liability company, whose address is 10308 WCR 72, Midland, TX 79707.

2.2 Defendant, Klaus, Inc., an Oklahoma corporation, may be served with process by and through the Texas Secretary of State because (a) Klaus, Inc. is a foreign entity that has failed to appoint or does not maintain a registered agent in the State of Texas; and (b) Defendant's registered agent in the State of Oklahoma could not, with reasonable diligence, be located at the registered office. Tex. Bus. Orgs. Code § 5.251(1)(A)-(B). This entity does not maintain an address on file with the Texas Secretary of State. However, the most recent address of this entity on file with the Oklahoma Secretary of State is 7403 E Eseco Road, Cushing, OK 74023.

See Ex. C.

M

Filed 12/26/2023 12:00 AM  
Margaret E. Littleton  
District Clerk  
Atascosa County, Texas  
Reviewed By: Jacquie Palacios

EXHIBIT A

- 2.3 Jurisdiction is proper because Plaintiff seeks monetary damages that are within the jurisdictional limits of this Court.
- 2.4 Venue is appropriate in this Court because Defendant's principal office is located in Harris County, Texas.

### **III. FACTS**

- 3.1 In the ordinary course of business Plaintiff sold to Defendant one or more items of goods, wares, merchandise, or services, as described, and shown on the invoices attached hereto as Exhibit "A" and incorporated by reference herein.
- 3.2 This account represents a transaction or series of transactions for which a systematic record has been kept.
- 3.3 The prices charged for each item were just and true because they were either (a) according to the terms of a written contract; or (b) the usual, customary, and reasonable prices for each item.
- 3.4 The account remains unpaid. The principal balance due to Plaintiff on the account is \$89,097.36, exclusive of interest, after all just and lawful offsets, payments, and credits have been allowed.
- 3.5 This is a suit on a sworn account brought pursuant to Rule 185 of the Texas Rules of Civil Procedure. See Ex. B.
- 3.6 All conditions precedent to Plaintiff's claim for relief have been performed or have occurred.

### **IV. ATTORNEY FEES**

M

EXHIBIT A

4.1 The failure and refusal of Defendant to pay its lawful debts has made it necessary for Plaintiff employ the undersigned attorney to file suit. This claim was timely presented to Defendant remains unpaid. Reasonable fees for the attorney's services rendered and to be rendered through trial and appeal are at least \$26,729.20. Plaintiff's entitlement to attorney fees is pursuant to Tex. Civ. Prac. & Rem. Code § 38.001(7).

#### **V. PRAYER**

- 5.1 Plaintiff prays that Defendant be cited to appear and answer and that;
- a. Plaintiff be granted judgment against Defendant for actual damages in the amount of \$89,097.36
  - b. Plaintiff be granted judgment for prejudgment and post-judgment interest at the highest rate permitted by law or contract;
  - c. Plaintiff be granted judgment for its reasonable attorney's fees in the amount of at least \$26,729.20 with additional contingent amounts in the event of appellate proceedings;
  - d. Plaintiff be granted judgment for all costs of court; and
  - e. Plaintiff be granted all such further relief, in law and in equity, to which he may show himself to be justly entitled.

Respectfully submitted,

**Magana & Van Dyke, PLLC**

/s/ Jason Lee Van Dyke  
Jason Lee Van Dyke  
Bar No. 24057426  
1417 E. McKinney St., #110  
Denton, TX 76209  
P - (940) 382-1976  
F - (469) 453-3031  
Email: jason@marsalalawgroup.com

# Exhibit

"A"



**MULHOLLAND  
ENERGY SERVICES**

10308 WCR 72  
Midland, TX 79707

## Invoice

Date	Invoice #
4/2/2022	20220405041

Bill To
Klaus, Inc. P.O. 1193 Drumwright, OK 74030

Location
Pleasanton, TX

AFE #	*Rig/Location*	Job Description
	CUSHING TERMINAL	PROVIDE HYDROVAC TO SPOT UNDERGROUND LINES & UTILITIES
P.O. No.	Co. Man	
Manifold 206	Shane Hallman	

Description	Date	Ticket #	Manifest #	Truck #	Disposal Loc.	UOM	Qty	Rate	Amount
Hydro Vac	2022-03-30	17285		155		Day	1	2,400.00	2,400.00
Truck Bid									
Hydro Vac	2022-03-31	17286		155		Day	1	2,400.00	2,400.00
Truck Bid									
Hydro Vac	2022-04-01	17287		155		Day	1	2,400.00	2,400.00
Truck Bid									
Hydro Vac	2022-04-02	17351		155		Day	1	2,400.00	2,400.00
Truck Bid									

**TOTAL AMOUNT DUE WITHIN 30 DAYS OF THE INVOICE DATE.**

Over due invoices are subject to a late payment charge of 1.5% per month on any unpaid balances. Customer shall be responsible for any and all reasonable attorney fees associated with the collection of unpaid balances.

**MAKE ALL CHECKS PAYABLE TO MULHOLLAND ENERGY SERVICES.**

<b>Subtotal</b>	<b>\$9,600.00</b>
<b>Sales Tax (6.75%)</b>	<b>\$0.00</b>
<b>Total</b>	<b>\$9,600.00</b>
<b>Payments/Credits</b>	<b>\$0.00</b>
<b>Balance Due</b>	<b>\$9,600.00</b>

501



10308 WCR 72  
Midland, TX 79707

# Invoice

Date	Invoice #
4/9/2022	20220412053

Bill To
Klaus, Inc. P.O. 1193 Drumwright, OK 74030

Location
Pleasanton, TX

AFE #	*Rig/Location*	Job Description
Na Na	CUSHING TERMINAL	PROVIDE HYDROVAC TO SPOT UNDERGROUND LINES & UTILITIES
P.O. No.	Co. Man	Drilling Rig
NA	Shane Hallman	Na

Description	Date	Ticket #	Manifest #	Truck #	Disposal Loc.	UOM	Qty	Rate	Amount
Hydro Vac Truck Bid	2022-04-04	17677	Na	155		Day	1	2,400.00	2,400.00
Hydro Vac Truck Bid	2022-04-05	17678	A	155		Day	1	2,400.00	2,400.00
Hydro Vac Truck Bid	2022-04-06	17946	Na	155		Day	1	2,400.00	2,400.00
Hydro Vac Truck Bid	2022-04-07	17947	Na	155		Day	1	2,400.00	2,400.00
Hydro Vac Truck Bid	2022-04-08	17895		141		Day	1	2,400.00	2,400.00
Hydro Vac Truck Bid	2022-04-08	17896		141		Day	1	2,400.00	2,400.00
Hydro Vac Truck Bid	2022-04-08	17949	Na	Na		Day	1	2,400.00	2,400.00
Hydro Vac Truck Bid	2022-04-09	17951	Na	155		Day	1	2,400.00	2,400.00

TOTAL AMOUNT DUE WITHIN 30 DAYS OF THE INVOICE DATE.

Over due invoices are subject to a late payment charge of 1.5% per month on any unpaid balances. Customer shall be responsible for any and all reasonable attorney fees associated with the collection of unpaid balances.

MAKE ALL CHECKS PAYABLE TO MULHOLLAND ENERGY SERVICES.

<b>Subtotal</b>	\$19,200.00
<b>Sales Tax (6.75%)</b>	\$0.00
<b>Total</b>	\$19,200.00
<b>Payments/Credits</b>	\$0.00
<b>Balance Due</b>	\$19,200.00



10308 WCR 72  
Midland, TX 79707

# Invoice

Date	Invoice #
4/12/2022	20220419018

Bill To
Klaus, Inc. P.O. 1193 Drumwright, OK 74030

Location
Pleasanton, TX

AFE #	*Rig/Location*	Job Description
	CUSHING TERMINAL	PROVIDE HYDROVAC TO SPOT UNDERGROUND LINES & UTILITIES
P.O. No.	Co. Man	Drilling Rig
Manifold 206	Shane Hallman	

Description	Date	Ticket #	Manifest #	Truck #	Disposal Loc...	UOM	Qty	Rate	Amount
Hydro Vac Truck Bid	2022-04-11	17953		155		Day	1	2,400.00	2,400.00
Mob/Demob Per Diem	2022-04-12	18577		155		Day	1	2,400.00	2,400.00
	2022-04-12	18577		155		Day	1	250.00	250.00

**TOTAL AMOUNT DUE WITHIN 30 DAYS OF THE INVOICE DATE.**

Over due invoices are subject to a late payment charge of 1.5% per month on any unpaid balances. Customer shall be responsible for any and all reasonable attorney fees associated with the collection of unpaid balances.

MAKE ALL CHECKS PAYABLE TO MULHOLLAND ENERGY SERVICES.

<b>Subtotal</b>	<b>\$5,050.00</b>
<b>Sales Tax (6.75%)</b>	<b>\$0.00</b>
<b>Total</b>	<b>\$5,050.00</b>
<b>Payments/Credits</b>	<b>\$0.00</b>
<b>Balance Due</b>	<b>\$5,050.00</b>


 10308 WCR 72  
 Midland, TX 79707
**Invoice**

Date	Invoice #
4/30/2022	20220503042

<b>Bill To</b>
Klaus, Inc. P.O. 1193 Drumwright, OK 74030

<b>Location</b>

AFE #	*Rig/Location*	Job Description
	CUSHING TERMINAL	provide hydrovac to spot underground line and utilities
P.O. No.	Co. Man	Drilling Rig
	Shane Hallman	

Description	Date	Ticket #	Manifest #	Truck #	Disposal Loc...	UOM	Qty	Rate	Amount
Hydro Vac Truck Bid	2022-04-27	20029		165		Day	1	2,400.00	2,400.00
Hydro Vac Truck Bid	2022-04-28	19953		165		Day	1	2,400.00	2,400.00
Hydro Vac Truck Bid	2022-04-29	19954		155		Day	1	2,400.00	2,400.00
Hydro Vac Truck Bid	2022-04-30	19955		155		Day	1	2,400.00	2,400.00

TOTAL AMOUNT DUE WITHIN 30 DAYS OF THE INVOICE DATE.

Over due invoices are subject to a late payment charge of 1.5% per month on any unpaid balances. Customer shall be responsible for any and all reasonable attorney fees associated with the collection of unpaid balances.

MAKE ALL CHECKS PAYABLE TO MULHOLLAND ENERGY SERVICES.

<b>Subtotal</b>	\$9,600.00
<b>Sales Tax (6.75%)</b>	\$0.00
<b>Total</b>	\$9,600.00
<b>Payments/Credits</b>	\$0.00
<b>Balance Due</b>	\$9,600.00

501



10308 WCR 72  
Midland, TX 79707

# Invoice

Date	Invoice #
5/5/2022	20220509082

Bill To
Klaus, Inc. P.O. 1193 Drumwright, OK 74030

Location
Pleasanton, TX

AFE #	*Rig/Location*	Job Description
	CUSHING TERMINAL	PROVIDE HYDROVAC TO SPOT UNDERGROUND LINES & UTILITIES
P.O. No.	Co. Man	Drilling Rig
Manifold 206	Shane Hallman	

Description	Date	Ticket #	Manifest #	Truck #	Disposal Loc...	UOM	Qty	Rate	Amount
Hydro Vac	2022-05-02	20805		165		Day	1	2,400.00	2,400.00
Truck Bid									
Hydro Vac	2022-05-03	20554		165		Day	1	2,400.00	2,400.00
Truck Bid									
Hydro Vac	2022-05-04	20558		Na	165		1	2,400.00	2,400.00
Truck Bid									
Hydro Vac	2022-05-05	20567		Na	155		1	2,400.00	2,400.00
Truck Bid									

TOTAL AMOUNT DUE WITHIN 30 DAYS OF THE INVOICE DATE.

Over due invoices are subject to a late payment charge of 1.5% per month on any unpaid balances. Customer shall be responsible for any and all reasonable attorney fees associated with the collection of unpaid balances.

MAKE ALL CHECKS PAYABLE TO MULHOLLAND ENERGY SERVICES.

<b>Subtotal</b>	\$9,600.00
<b>Sales Tax (6.75%)</b>	\$0.00
<b>Total</b>	\$9,600.00
<b>Payments/Credits</b>	\$0.00
<b>Balance Due</b>	\$9,600.00

501



10308 WCR 72  
Midland, TX 79707  
(432)695-4111

## **Invoice**

Date	Invoice #
5/9/2022	223831

**Bill To**

Klaus, Inc.  
P.O. 1193  
Drumwright, OK 74030

P.O. Number	*Rig/Location*	Job Description		
		POTHOLING -TRENCHING		
DATE	DESCRIPTION	QUANTITY	RATE	AMOUNT
5/9/2022	Hydro Vac Truck 166 H24051	1	2,400.00	2,400.00
5/10/2022	Hydro Vac Truck 166 H24052	1	2,400.00	2,400.00
5/11/2022	Hydro Vac Truck 166 H24053	1	2,400.00	2,400.00
5/12/2022	Hydro Vac Truck 166 H24054	1	2,400.00	2,400.00



10308 WCR 72  
Midland, TX 79707  
(432)695-4111

## Invoice

Date	Invoice #
5/21/2022	2204080

### Bill To

Klaus, Inc.  
P.O. 1193  
Drumwright, OK 74030

P.O. Number	*Rig/Location*	Job Description		
		POTHOLING AND TRENCHING		
DATE	DESCRIPTION	QUANTITY	RATE	AMOUNT
5/16/2022	Hydro Vac Truck 166 H24055-	1	2,400.00	2,400.00
5/17/2022	Hydro Vac Truck 166 H24056-	1	2,400.00	2,400.00
5/18/2022	Hydro Vac Truck 166 H24057	1	2,400.00	2,400.00
5/19/2022	Hydro Vac Truck 166 H24058	1	2,400.00	2,400.00
5/20/2022	Hydro Vac Truck 166 H24059	1	2,400.00	2,400.00
5/21/2022	Hydro Vac Truck 166 H24060	1	2,400.00	2,400.00

  

TOTAL AMOUNT DUE WITHIN 30 DAYS OF THE INVOICE DATE. Over due invoices are subject to a late payment charge of 1.5% per month on any unpaid balances. Customer shall be responsible for any and all reasonable attorney fees associated with the collection of unpaid balances. MAKE ALL CHECKS PAYABLE TO MULHOLLAND ENERGY SERVICES.	<b>Total</b>	\$14,400.00
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10308 WCR 72  
Midland, TX 79707  
(432)695-4111

## Invoice

Date	Invoice #
5/26/2022	224500

### Bill To

Klaus, Inc.  
P.O. 1193  
Drumwright, OK 74030

		Job Description		
P.O. Number	*Rig/Location*	POTHOLING/TRENCHING		
	Embridge M206-M223-Cushing, OK			
DATE	DESCRIPTION	QUANTITY	RATE	AMOUNT
5/23/2022	Hydro Vac Truck 166 H24061	1	2,400.00	2,400.00
5/24/2022	Hydro Vac Truck 166 H24062	1	2,400.00	2,400.00
5/26/2022	Hydro Vac Truck 166 H24063	1	2,400.00	2,400.00
<b>TOTAL AMOUNT DUE WITHIN 30 DAYS OF THE INVOICE DATE.</b> Over due invoices are subject to a late payment charge of 1.5% per month on any unpaid balances. Customer shall be responsible for any and all reasonable attorney fees associated with the collection of unpaid balances. MAKE ALL CHECKS PAYABLE TO MULHOLLAND ENERGY SERVICES.		<b>Total</b>	\$7,200.00	



**MULHOLLAND  
ENERGY SERVICES**

10308 WCR 72  
Midland, TX 79707  
(432)695-4111

## **Invoice**

Date	Invoice #
6/8/2022	225223

Bill To

Klaus, Inc.  
P.O. 1193  
Drumwright, OK 74030

		Job Description		
P.O. Number	*Rig/Location*	Potholing- Trench		
DATE	DESCRIPTION	QUANTITY	RATE	AMOUNT
6/7/2022	Hydro Vac Truck 166 -H24072	1	2,400.00	2,400.00
6/8/2022	Hydro Vac Truck 166 -H24073	1	2,400.00	2,400.00
6/8/2022	Fresh Water Fee-HYDRO	30	1.50	45.00T
	Logan County Oklahoma Sales Tax		5.25%	2.36

# Exhibit

" "

UNSWORN DECLARATION FOR SUIT ON A SWORN ACCOUNT

1. My name is Stacey Parker.
2. I am the Office of Collections Mgr of Mulholland Energy Services ("Plaintiff") and I have care, custody and control of all records concerning the account of Klaus, Inc. ("Defendant" or "Defendants").
3. These records show that, as of June 8, 2022 the total principal balance of \$ 89,097.36 (USD), exclusive of interest, is due and payable by Defendant to Plaintiff and demand for payment was made more than 30 days ago.
4. I hereby aver that the claim attached to Plaintiff's Original Petition is within my personal knowledge, is just and true, is due by Defendant to Plaintiff, and that all just and lawful offsets, payments, and credits to this account have been allowed..

My name is Stacey Parker, my date of birth is 8/22/66, and my address is 10308 WCR 72, Midland, TX 79707 in Midland County/Parish, State of Texas, U.S.A.. I declare under penalty of perjury that I have read this unsworn declaration, that its contents are within my personal knowledge, and that it is true and correct.

Executed in Midland County/Parish, State of Texas, U.S.A. on August 14, 2023.

/s/ Stacey Parker  
Declarant

UNSWORN DECLARATION

# Exhibit

" "

[Business Services](#)[Notary](#)[Charitable Organizations](#)[Open Meetings](#)[Agricultural Liens](#)[Executive Legislative](#)

## BUSINESS ENTITIES SEARCH - VIEW ENTITY

[Print Page](#)

Order Number: 63297170002

### Details

Filing Number: 1900573565  
 Entity Name: KLAUS, INC.  
 Status: In Existence  
 Entity Type: Domestic For Profit Business Corporation  
 Jurisdiction: Oklahoma  
 Original Filing Date: Sep 27 1996  
 Duration: Perpetual  
 Entity Address: N/A

### Registered Agent Information

Name: KELLY D. KLAUS  
 Effective: Jun 25 2010  
 Address: 7403 E ESECO RD  
 City,State,ZipCode: CUSHING OK 74023

### FILING HISTORY :

Document Number	Filing Type	Filing Date
358319	Certificate of Incorporation	September 27, 1996
14757000002	Change of Registered Agent and/or Office	June 25, 2010

EXHIBIT A

## NAMES INFORMATION

Case 2424-0009098R Document 12 Filed 01/23/24 Page 2487 of 2490

Name	Name Type	Name Status	Creation Date
KLAUS, INC.	Legal	In use	September 27, 1996

## PRINCIPALS

Name	Title
JOHN E FORSYTH	Incorporator

## TRADENAMES

No entries found.

## STOCKS INFORMATION

Date	Stock Type	Number of Shares	PAR Value	Amount
September 27, 1996	Common (Voting)	50000	1	\$0.00

POC: \$0

TAC: \$50000

Total Investment in OK: \$0

Qualified: NO

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

### I. (a) PLAINTIFFS

MULHOLLAND ENERGY SERVICES, LLC

(b) County of Residence of First Listed Plaintiff Midland County, TX  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Jason Lee Van Dyke, Magana & Van Dyke, PLLC, 1417  
E. McKinney St., #110, Denton, TX 76209

### DEFENDANTS

KLAUS, INC.

County of Residence of First Listed Defendant Creek County, OK  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Scott P. Hathaway and Philip Racusin, Conner & Winters,  
LLP, 4000 One Williams Center, Tulsa Oklahoma 74103

### II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- |  |  |
|--|--|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question<br>(U.S. Government Not a Party)                     |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input checked="" type="checkbox"/> 4 Diversity<br>(Indicate Citizenship of Parties in Item III) |

### III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF	PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4 <input checked="" type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input checked="" type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6

### IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<b>PERSONAL INJURY</b>	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability		<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 340 Marine Product Liability		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 350 Motor Vehicle		<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 370 Other Fraud		<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 371 Truth in Lending		<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 380 Other Personal Property Damage		<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)
<input checked="" type="checkbox"/> 190 Other Contract		<input type="checkbox"/> 385 Property Damage Product Liability		<input type="checkbox"/> 485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability				<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 850 Securities/Commodities/ Exchange
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	<b>Habeas Corpus:</b>	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<b>Other:</b>		<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 540 Mandamus & Other		<input type="checkbox"/> 950 Constitutionality of State Statutes
		<input type="checkbox"/> 550 Civil Rights		
		<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		
IMMIGRATION			FEDERAL TAX SUITS	
		<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
		<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

### V. ORIGIN (Place an "X" in One Box Only)

- |  |  |  |   |  |  |   |
|--|--|--|---|--|--|---|
| <input type="checkbox"/> 1 Original Proceeding | <input checked="" type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from Another District (specify) | <input type="checkbox"/> 6 Multidistrict Litigation - Transfer | <input type="checkbox"/> 8 Multidistrict Litigation - Direct File |
|--|--|--|---|--|--|---|

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. §§ 1332, 1441, 1446 - Diversity Jurisdiction

### VI. CAUSE OF ACTION

Brief description of cause:  
Plaintiff seeks payment from Defendant under the theory of a sworn account for services provided

### VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.      DEMAND \$      CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes  No

### VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE

01/23/2024

SIGNATURE OF ATTORNEY OF RECORD

/s/ Philip Racusin (Lead Counsel: Scott P. Hathaway)

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

EXHIBIT A

JUDGE

MAG. JUDGE

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44****Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.  
Original Proceedings. (1) Cases which originate in the United States district courts.  
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.  
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

**Automated Certificate of eService**

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Janet Cook on behalf of Philip Racusin

Bar No. 24054267

jcook@cwlaw.com

Envelope ID: 83797036

Filing Code Description: Notice

Filing Description: Notice of Removal

Status as of 1/26/2024 3:47 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Jason LeeVan Dyke		jason@marsalalawgroup.com	1/25/2024 2:01:27 PM	SENT
Scott PHathaway		phathaway@cwlaw.com	1/25/2024 2:01:27 PM	SENT
Philip DRacusin		pracusin@cwlaw.com	1/25/2024 2:01:27 PM	SENT
Janet Cook		jcook@cwlaw.com	1/25/2024 2:01:27 PM	SENT